

REMARKS

The final Office Action mailed April 20, 2007 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-10 are now pending in this application. Claims 1-10 stand rejected. Claims 11-23 have been canceled without prejudice.

Initially, Applicant respectfully submits that, on Page 1 of the Office Action, the drawings submitted July 30, 2003 are neither accepted nor objected to. As such, Applicant respectfully requests that Examiner acknowledge acceptance of the drawings submitted July 30, 2003.

The present amendment is intended to place the application in condition for allowance by canceling non-elected Claims 11-23. Applicant wishes to emphasize that the cancellation of Claims 11-23 is without prejudice, and that Applicant reserves the right to file a divisional application or applications to prosecute the subject matter of these claims.

The rejection of Claims 1, 2, 4-7, 9, and 10 under 35 U.S.C. § 102(b) as being anticipated by U.K. Patent GB 2 052 251 to Büttner, et al. (hereinafter referred to as "Büttner") is respectfully traversed.

Büttner describes a method of controlling the operation of a washing machine based on one of a measured surface tension, pH value, and electrical conductivity of water introduced into the washing machine. For example, Büttner describes limiting the number of rinsing operations of a washing machine based on the surface tension of the water in the washing machine reaching a pre-determined surface tension. Büttner also describes limiting the number of rinsing operations of a washing machine based on the pH value of the water in the washing machine reaching a pre-determined pH value. Further, Büttner describes limiting the number of rinsing operations of a washing machine based on the conductivity of the water in the washing machine reaching a pre-determined conductivity. Notably, Büttner does not describe or suggest a washing machine that includes a resistance network including a sensor, a resistor, and a voltage source, wherein the sensor is positioned and configured to

sense the conductivity of fluid in a tub. Moreover, Büttner does not describe or suggest a controller configured to control an amount of fluid in a tub during a rinse cycle based on the conductivity measured at the end of a wash cycle.

It is asserted in the Office Action that “Applicant has claimed a washing machine apparatus employing an automatic controller, therefore the operational steps as claimed are of little patentable weight in that Büttner has disclose all on all of the structure and the same is capable of functioning as instantly claimed.” However, it is well established that a patent applicant is free to recite features of an apparatus either structurally or functionally. In re Schreiber, 44 USPQ2d 1429, 1432 (Fed. Cir. 1997); In re Swinehart, 169 USPQ 226, 228 (CCPA 1971). In construing a patent claim for examination, it is improper to ignore functional recitations. Pac-Tec, Inc. v. Amerace Corp., 14 USPQ2d 1871, 1876 (Fed. Cir. 1990); In re Venezia, 189 USPQ 149 (CCPA 1976). In a proper construction of the claims, *all* recitations of the claims must be considered. *See* MPEP § 2143.03 (all words in a claim must be considered in judging the patentability of the claim against the prior art). In the present claims, the use of “configured to” and “positioned” language is employed to define the structure or connection of assembly components in terms of their relationships with other recited components, or their functions possessed in the completed assembly. Therefore, the scope of the present claims, including functional aspects thereof, are submitted to be readily ascertainable, and consequently are submitted to be patentable over Büttner.

Moreover, Claim 1 recites a washing machine including “a tub; a resistance network comprising a sensor, a resistor, and a voltage source, said sensor positioned and configured to sense a conductivity of a fluid in said tub; and a controller operatively coupled to said sensor and configured to control an amount of the fluid in said tub during a rinse cycle based on the conductivity of the fluid measured at an end of a wash cycle.”

Büttner does not describe or suggest a washing machine as recited in Claim 1. More specifically, Büttner does not describe or suggest a resistance network including a sensor, a resistor, and a voltage source, wherein the sensor is positioned and configured to sense the conductivity of a fluid in a tub, as required by Applicant’s claimed invention. Moreover, Büttner does not describe or suggest a controller configured to control *an amount of the fluid*

in the tub during a rinse cycle based on the conductivity of the fluid measured at an end of a wash cycle. Rather, in contrast to the present invention, Büttner merely describes a method of determining *a number of rinsing operations* based on when the rinsing water reaches the conductivity of the water introduced into the washing machine. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Büttner.

Claims 2, 4-7, 9, and 10 depend from independent Claim 1. When the recitations of Claims 2, 4-7, 9, and 10 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2, 4-7, 9, and 10 likewise are patentable over Büttner.

For at least the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1, 2, 4-7, 9, and 10 be withdrawn.

The rejection of Claims 3 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Büttner is respectfully traversed.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. The mere assertions that “Claims 3 and 8 respectively define over UK’251 only in the recitation of the location of the sensor and the length of time” and “to have the sensor located as claimed is deemed to be a mere rearrangement of parts” do not support a *prima facie* obvious rejection. Rather, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art, and Applicant given an opportunity to challenge the correctness of the assertion or the repute of the cited reference. Applicant has not been provided with the citation to any reference supporting the combination made in the rejection. The rejection, therefore, fails to provide Applicant with a fair opportunity to respond to the rejection, and fails to provide Applicant with the opportunity to challenge the correctness of the rejection. Therefore, Applicant respectfully requests that the Section 103 rejection be withdrawn.

Moreover, if art “teaches away” from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. Moreover, Applicant respectfully submits Büttner teaches away from the claimed invention. Specifically, Büttner teaches away from a controller configured to control *an amount of the fluid* in the tub during a rinse cycle based on the conductivity of the fluid measured at an end of a wash cycle. Rather, Büttner describes a method of determining *a number of rinsing operations* based on when the rinsing water reaches the conductivity of the water introduced into the washing machine. For this reason alone, Applicant respectfully requests that the Section 103 rejection of Claims 3 and 8 be withdrawn.

Moreover, and to the extent understood, Büttner does not describe or suggest the claimed invention. Specifically, Claim 1 recites a washing machine including “a tub; a resistance network comprising a sensor, a resistor, and a voltage source, said sensor positioned and configured to sense a conductivity of a fluid in said tub; and a controller operatively coupled to said sensor and configured to control an amount of the fluid in said tub during a rinse cycle based on the conductivity of the fluid measured at an end of a wash cycle.”

Büttner does not describe or suggest a washing machine as recited in Claim 1. More specifically, Büttner does not describe or suggest a resistance network including a sensor, a resistor, and a voltage source, wherein the sensor is positioned and configured to sense the conductivity of a fluid in a tub, as required by Applicant’s claimed invention. Moreover, Büttner does not describe or suggest a controller configured to control *an amount of the fluid* in the tub during a rinse cycle based on the conductivity of the fluid measured at an end of a wash cycle. Rather, in contrast to the present invention, Büttner merely describes a method of determining *a number of rinsing operations* based on when the rinsing water reaches the conductivity of the water introduced into the washing machine.

Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Büttner.

Claims 3 and 8 depend from independent Claim 1. When the recitations of Claims 3 and 8 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3 and 8 likewise are patentable over Büttner.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 3 and 8 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



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